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Mr. Jeffrey S. Steinberg, Deputy Chief  
Commercial Wireless Division, Wireless Telecommunication Bureau  
Federal Communications Commission  
Washington, D C 20554

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Reference FCC No. ~~03-125~~ 03-128

Federal Communications Commission  
Office of the Secretary

Dear Mr. Steinberg,

As Chair of the O'ahu Council of Hawaiian Civic Clubs Committee on the Preservation of Historic Sites and Cultural Properties I would like to comment on the FCC Nationwide Programmatic Agreement. The first Hawaiian civic club was founded in 1918 by Prince Jonah Kuhio Kalaniana'ole, and other prominent Hawaiian citizens, to better the deteriorating condition of the Hawaiian people following the overthrow of the Hawaiian Kingdom. The organization was one of several groups of the period coordinating support for the Hawaiian Homestead Act in the U.S. Congress and has continued to thrive since then.

The Association of Hawaiian Civic Clubs is comprised of forty-two clubs in the state of Hawaii and six states on the continent. O'ahu Council is the largest of five councils, comprised of twenty-one clubs throughout the island of O'ahu. Oahu Council is engaged in the care and preservation of the native culture, language and sites, as well as the education of Hawaiian youth and other worthy programs and projects.

In January of 2001, the Council established the Committee on the Preservation of Historic Sites and Cultural Properties. This committee was established to identify all the cultural sites on the island of O'ahu and to facilitate partnerships in their care and preservation.

Presently we have a database of more than four hundred sites, some, but not all of which have been documented by previous archaeological surveys. Our commitment is to assure that all of our cultural sites are preserved for future generations. Focus of the committee's recent effort has been the preservation of sites that are at risk due to the encroachment of urbanization and development. We participate in the permitting process regarding the adverse impacts on cultural resources, and we participate as cultural informants for sites within our respective kuleana (responsibility).

I will address our concerns by referring to your highlights of the proposed Nationwide Agreement that may impact Native Hawaiian cultural resources. What needs to be understood from a Native Hawaiian perspective is that cultural resources do not only include archaeological structures but the impact on the environment. Perhaps it is important at this point to explain how and why the ancient Hawaiians divided the islands the way they did. It was a governance based on conservation. Crimes were those against

074

the environment and population sustainability. The individual islands were divided into pie-shaped boundaries and referred to as moku and ahupua'a. Anciently the island of O'ahu was divided into 6 pie-shaped geographical areas. They were the Moku of Kona (Honolulu), Moku of 'Ewa, Moku of Wai'anae, Moku of Wai'alua, Moku of Ko'olaupoko and the Moku of Ko'olaupoko. These 6 pie-shaped geographical areas were further divided into smaller pie-shaped geographical areas. Each of these areas extended from the shoreline to the mountains. An adverse impact to the water in the mountains is an adverse impact to the sea. It was divided in this manner to make certain that all those who lived within an ahupua'a had all the resources that he needed to sustain himself without dependence on outside resources. Laws were created and enforced to insure the sustainability of all of its resources for the population that lived within its boundaries. In a traditional Hawaiian perspective you cannot separate the people and the land. We are one and the same. We come from the land. The land nourishes our bodies. We return to it when we die. In summary, impacts to the land is an impact to our cultural resources and religious beliefs.

- Exclusions from Section 106 review for certain projects that are unlikely to have an adverse effect on historic properties. This would be in addition to those projects that are already excluded from review under the Nationwide Collocation Programmatic Agreement, adopted March 16, 2001.

Exclusionary policies need to be specific. These items cannot be left in generic terms. We realize that there is an economic issue here but the loss of something historic or culturally significant is permanent. It cannot ever be replaced. Collocation is a partial answer. It is not the answer. In terms of Hawaiian cultural resources and the related mo'olelo or ancient stories associated with those resources, view planes become extremely sensitive. These geographical areas are our mountain tops. They were not only considered the homes of the gods, they were also used as references in determining the time of the year. The ancient Hawaiian did not have a written calendar. The same navigational technology they used to travel the oceans they also used on land in determining the time of the year. Their calendar was the sun, moon, stars and constellations with reference to geographical features such as mountain tops, gaps between mountains or even small cinder cones or volcanoes. There are many ancient stories associated with the profile of mountain tops or topographical features that resembled both human and animal forms. In summary exclusionary policies have to be specific. The new construction has to stay within the original footprint. That footprint should include the space around the original structure.

- Guidelines for inviting tribal participation in the Section 106 process and for consultation with federally recognized Indian tribes and Native Hawaiian organizations. The current draft includes two alternative sets of provisions for

tribal participation and consultation; one developed by a working group of various interests and one proposed through consultation with the United South and Eastern Tribes, Inc.

As a result of our participation in the Section 106 process on federal projects we have become increasingly aware of how important it is to have the proper cultural informants involved in the consultation. It is important in making the right decision in the consultation process and that the people who possess the cultural information be included in the cultural assessment. I would like to recommend that the following criteria of a "Cultural Informant" be included in the language of these guidelines:

"A Cultural Informant is a person who is hired or volunteers to interpret the cultural rather than the scientific significance of an archaeological project area including burials. A Cultural Informant shall demonstrate: 1. A cultural affiliation with the affected project area; 2. Familiarity with the affected and anticipated cultural properties in the project area; 3. Sensitivity and the ability to represent and communicate to developers and property owners on behalf of the Native Hawaiian community; 4. Possess the knowledge and the ability to exercise the proper protocols."

- Guidelines for identifying, evaluating, and assessing effects on historic properties.

The Advisory Council on Historic Preservation, their regional affiliates, and the State of Hawaii Historic Preservation Office have defined guidelines for identifying, evaluating, and assessing effects on historic properties. What needs to be understood is that these offices in part are politically motivated. It is questionable at times whether State Offices of Historic Preservation are motivated by development or preservation. Oftentimes these historic and cultural sites are put at risk by what motivates a project. A best solution and my comment is to make certain that we are consulting with the right people. I would suggest in the language of the Nationwide Agreement you include the O'ahu Council of Hawaiian Civic Clubs Committee on the Preservation of Historic Sites and Cultural Properties

- Procedures and timelines for submitting effective findings to State Historic Preservation Officers and the Commission, and for the resolution of such submissions.

All of the members on the O'ahu Council of Hawaiian Civic Clubs Committee on the Preservation of Historic Sites and Cultural Properties are volunteers and committed to the preservation of all of our cultural sites and landscapes. They all have fulltime commitments and other responsibilities. Would suggest a 30 day turn around from notification to submittal of findings

Mr Jeffrey S. Steinberg  
August 6, 2003  
Page 4

- Procedures for instances in which facilities are improperly constructed without prior Section 106 review

If construction is underway all work must stop immediately. Implement Section 106 process. Damage assessment to cultural resources and mitigation plan put in place before any work commences.

If project is complete. Premises to be vacated. Implement Section 106 process. Damage assessment needs to be made. Mitigation plan put in place before facilities become operational.

- Standard formats for submission of documentation to State Historic Preservation Officers and Tribal Historic Preservation Officers.

Standard formats for submission of documentation should be made available by e-mail.

Sincerely yours,

Shad Kane

Shad Kane, Chairman  
OCHCC Committee on the Preservation of Historic Sites and Cultural Properties